REMARKS

Applicants have reviewed and considered the non-final Office Action mailed on October 16, 2008. Claims 61-65 are currently pending.

Applicants respectfully request reconsideration and allowance of all claims in view of the following remarks.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response.

Claims 61-65 are patentable over McKenna in view of Wachob under §103

Claims 61-65 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,816,904 to McKenna et al. ("McKenna") in view of U.S. Patent No. 5,155,591 to Wachob (hereinafter "Wachob"). The rejection is traversed.

Applicants respectfully submit that McKenna and Wachob, alone or in any permissible combination, fail to teach or suggest a system or method comprising <u>a group assignment rules processor engine for managing the plurality of group assignment rules by allowing a viewer to review which group the viewer's set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to locally modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal,</u> as positively claimed by Applicants' independent claims 61 and 64. Specifically, claims 61 and 64 positively recite:

> 61.   A system, comprising:
>   a processor located remotely from a viewer's set top terminal at an operations center for generating a plurality of group assignment rules based on viewing information;
>   a switching engine for receiving said plurality of group assignment rules, wherein said plurality of group assignment rules associate a plurality of set top terminals to a group based on a target category and a switching plan and for

switching at least one program channel to at least one feeder channel according to the switching plan, the feeder channel being an ancillary channel for providing a plurality of advertisements based on a group assignment in the plurality of group assignment rules;

a group assignment rules processor engine for managing the plurality of group assignment rules by allowing a viewer to review which group the viewer's set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to locally modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal; and

a data collection engine for collecting information including advertisements watched data and any changes to the plurality of group assignment rules for use in future advertising targeting. (Emphasis added).

64.   A method, comprising:

creating a plurality of group assignment rules based on viewing information via a processor located remotely from a viewer's set top terminal at an operations center;

receiving said plurality of group assignment rules, wherein said plurality of group assignment rules associate a plurality of set top terminals to a group based on a target category and a switching plan;

switching at least one program channel to at least one feeder channel according to the switching plan, the feeder channel being an ancillary channel for providing a plurality of advertisements based on a group assignment in the plurality of group assignment rules;

managing the group assignment rules by allowing a viewer to review which group the viewer's set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to locally modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal; and

collecting information including advertisements watched data and any changes to the plurality of group assignment rules for use in future advertising targeting. (Emphasis added).

In an exemplary embodiment, Applicants' invention teaches a system comprising a group assignment rules processor engine for managing the plurality of group assignment rules by allowing a viewer to review which group the viewer's set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the

viewer to locally modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal. For example, the group assignment rules allow for the assignment of a group number to each set top terminal for each target category based on information collected and stored by the set top terminal. (See e.g. Applicants' specification, p. 48, ll. 5-7). In other words, each set top terminal is associated with other set top terminals based on the group number. (See e.g. Applicants' specification, p. 47, Table D). However, if a subscriber wishes to modify or override the assigned group number, the group assignment rules processor engine provides a way for the subscriber to review the current group assignment rules in effect for his or her terminal (i.e. see which group the set top terminal is assigned to) and override or modify any or all of the current group assignment rules in effect. (See e.g., Applicants' specification, p. 59, ll. 17-25).

In contrast, McKenna fails to disclose the claimed group assignment rules processor engine that allows a viewer to review and modify or override the group assignment rules. The Examiner concedes this in the Office Action. (See p. 3, ll. 8-14.) However, the Examiner alleges that Wachob bridges the substantial gap left between McKenna and Applicants' invention.

Wachob fails to bridge the substantial gap between McKenna and Applicants' invention because Wachob also fails to teach or to suggest a system comprising a group assignment rules processor engine for managing the plurality of group assignment rules by allowing a viewer to review which group the viewer's set top terminal is assigned to by said processor according to a respective group assignment rule of said plurality of group assignment rules and by processing any input from the viewer to locally modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal. The Examiner asserts that this these limitations are taught by Wachob on column 5, lines 37-60 and FIG. 2. The Applicants respectfully disagree.

Wachob on column 5, lines 37-60 only teach the use of a remote control to enter demographic information. For example, the viewer is required to press a demographic key on the remote control before any other key is depressed to select a channel or other

converter function. (See Wachob, col. 5, ll. 61-64). Thus, a viewer is required to enter demographic information before watching a channel.

Notably, the remote control is not used to review any group assignment rules that allow a viewer to review which group the set top terminal is assigned to. Rather, in Wachob, the viewer is simply informing the set top terminal demographic information of the person that is about to watch a television channel.

Thus, even if Wachob and McKenna were permissibly combined, the teachings of Wachob would simply be used to provide more demographic information to the system taught by McKenna. However, nothing in the teachings of Wachob would allow a viewer to review which group they are assigned to, as disclosed by McKenna.

Moreover, Wachob fails to teach or suggest that a viewer may <u>modify or override any of the remotely assigned group assignment rules associated with the viewer's set top terminal</u>. At best, Wachob only teaches that a user my provide more demographic information. Thus, if a set top terminal associated with a viewer in Wachob is assigned to a group with other set top terminals, nothing in Wachob teaches or suggests that the viewer may modify or override this assignment. A viewer in Wachob can only tell the set top terminal information about who is watching a television program. For example, by pressing a male switch or a female switch. (See Wachob, col. 5, ll. 37-60; FIG. 2).

As such, McKenna and Wachob alone or in combination fail to teach or suggest Applicants' invention as claimed in at least claims 61 and 64. Accordingly, claims 61 and 64 are patentable under 35 U.S.C. §103 over McKenna and Wachob. Claims 62, 63, and 65 depend, directly or indirectly, from claim 61 and, thus, inherit the patentable subject matter of claim 61, while adding additional elements and further defining elements. Therefore, claims 62, 63, and 65 are also patentable over McKenna and Wachob under §103 for at least the reasons given above with respect to claims 61 and 64. Therefore, the Examiner's rejection of claims 61-65 should be withdrawn.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and allowance of the claims. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 842-8110 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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